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ADMINISTRATIVE AND BUDGETARY ASPECTS OF THE FINANCING OF THE UNITED NATIONS PEACEKEEPING OPERATIONS: FINANCING OF THE UNITED NATIONS PEACEKEEPING OPERATIONS

Report of the Fifth Committee (Part IV)

Rapporteur: Mr. Djamel MOKTEFI (Algeria)

I. INTRODUCTION

1. The previous recommendations made by the Fifth Committee to the General Assembly under item 142 (a) appear in the report of the Committee contained in documents A/52/453 and Add.1 and 2.

2. The Fifth Committee resumed its consideration of the item at its 62nd to 65th and 68th meetings, from 18 to 20 and on 29 May 1998. Statements and observations made in the course of the Committee's further consideration of the item are reflected in the relevant summary records (A/C.5/52/SR.62-65 and 68).

3. In addition to the documents listed in A/52/453 and Add.1 and 2, the Committee had before it the following documents:

Financing of the United Nations Logistics Base at Brindisi, Italy

(a) Report of the Secretary-General containing the financial performance report of the Base for the period from 1 July 1996 to 30 June 1997 (A/52/810);

(b) Report of the Secretary-General containing a comprehensive cost-benefit analysis of the operation of the Base and cost estimates for the period from 1 July 1998 to 30 June 1999 (A/52/858);

(c) Report of the Advisory Committee on Administrative and Budgetary Questions (A/52/897);

50,000 dollars provided for in subparagraph (d) above be exceeded in a particular case if the Secretary-General, after carrying out the required investigations, finds that there exist compelling reasons that warrant exceeding the limitation."

5. At the same meeting, the Committee adopted draft resolution A/C.5/52/L.7, as orally revised, without a vote (see para. 10, draft resolution I).

B. Draft resolution A/C.5/52/L.53

6. At the 68th meeting, on 29 May, the representative of Zimbabwe and coordinator of the informal consultations on draft resolution A/C.5/52/L.53, entitled "Financing of the United Nations Logistics Base at Brindisi, Italy", introduced the draft resolution on behalf of the Chairman and orally revised it by replacing footnote 2, which had read "[A/52/860] and A/52/897" by "A/52/897".

7. At the same meeting, the Committee adopted draft resolution A/C.5/52/L.53, as orally revised, without a vote (see para. 10, draft resolution II).

C. Draft decision proposed by the Chairman

8. At the 68th meeting, on 29 May, the Chairman of the Committee orally proposed a draft decision, entitled "Budgetary requirements for peacekeeping operations", which the Committee adopted without a vote (see para. 11, draft decision I).

D. Draft decision proposed by the Chairman

9. At the 68th meeting, on 29 May, the Chairman of the Committee orally proposed a draft decision, entitled "Death and disability benefits", which the Committee adopted without a vote (see para. 11, draft decision II).

III. RECOMMENDATIONS OF THE FIFTH COMMITTEE

10. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Third-party liability: temporal and financial limitations

The General Assembly,

Recalling its resolution 51/13 of 4 November 1996 on third-party liability claims against the United Nations resulting or arising from peacekeeping operations conducted by the Organization, in which the Assembly requested the Secretary-General to develop specific measures, including criteria and

guidelines for implementing the principles of temporal and financial limitations on the liability of the United Nations,

Having considered the report of the Secretary-General on third-party liability[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

1. Takes note of the report of the Secretary-General on third-party liability;[1]

2. Also takes note of the observations contained in the report of the Advisory Committee on Administrative and Budgetary Questions;[2]

3. Endorses the proposals of the Secretary-General[3] for implementing principles of temporal and financial limitations on the liability of the Organization;

4. Also endorses the recommendation of the Advisory Committee on Administrative and Budgetary Questions;[4]

5. Decides that the temporal and financial limitations set out in paragraphs 8 to 11 of the present resolution shall apply to third-party claims against the Organization for personal injury, illness or death, and for property loss or damage, including non-consensual use of premises, resulting from or attributable to the activities of members of peacekeeping operations in the performance of their official duties, as described in paragraph 13 of the report of the Secretary-General;[1]

6. Endorses the view of the Secretary-General that liability is not engaged in relation to third-party claims resulting from or attributable to the activities of members of peacekeeping operations arising from "operational necessity", as described in paragraph 14 of the first report of the Secretary-General on third-party liability;[5]

7. Also endorses the views of the Secretary-General, reflected in paragraph 14 of his report,[1] with regard to third-party claims resulting from gross negligence or wilful misconduct of the personnel provided by troop-contributing States for peacekeeping operations, and requests the Secretary-General to report on their implementation in the relevant performance reports;

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[1] A/51/903.

[2] A/52/410.

[3] See, in particular, A/51/903, sect. IV.

[4] A/52/410, para. 5.

[5] A/51/389.

8. Decides that, where the liability of the Organization is engaged in regard to third-party claims against the Organization resulting from peacekeeping operations, the Organization will not pay compensation in regard to such claims submitted after six months from the time the damage, injury or loss was sustained, or from the time it was discovered by the claimant, and in any event after one year from the termination of the mandate of the peacekeeping operation, provided that in exceptional circumstances, such as described in paragraph 20 of the report of the Secretary-General,[1] the Secretary-General may accept for consideration a claim made at a later date;

9. Decides also, in respect of third-party claims against the Organization for personal injury, illness or death resulting from peacekeeping operations, that:

(a) Compensable types of injury or loss shall be limited to economic loss, such as medical and rehabilitation expenses, loss of earnings, loss of financial support, transportation expenses associated with the injury, illness or medical care, legal and burial expenses;

(b) No compensation shall be payable by the United Nations for non-economic loss, such as pain and suffering or moral anguish, as well as punitive or moral damages;

(c) No compensation shall be payable by the United Nations for homemaker services and other such damages that, in the sole opinion of the Secretary-General, are impossible to verify or are not directly related to the injury or loss itself;

(d) The amount of compensation payable for injury, illness or death of any single individual, including for the types of loss and expenses described in subparagraph (a) above, shall not exceed a maximum of 50,000 United States dollars, provided, however, that within such limitation the actual amount is to be determined by reference to local compensation standards;

(e) In exceptional circumstances, the Secretary-General may recommend to the General Assembly, for its approval, that the limitation of 50,000 dollars provided for in subparagraph (d) above be exceeded in a particular case if the Secretary-General, after carrying out the required investigations, finds that there exist compelling reasons that warrant exceeding the limitation;

10. Decides further the following in respect of third-party claims against the Organization for property loss or damage resulting from peacekeeping operations:

(a) Compensation for non-consensual use of premises shall either: (i) be calculated on the basis of the fair rental value, determined on the basis of the local rental market prices that prevailed prior to the deployment of the peacekeeping operation as established by the United Nations pre-mission technical survey team; or (ii) not exceed a maximum ceiling amount payable per square metre or per hectare as established by the United Nations pre-mission technical survey team on the basis of available relevant information; the Secretary-General will decide on the appropriate method for calculating

compensation payable for non-consensual use of premises at the conclusion of the pre-mission technical survey;

(b) Compensation for loss or damage to premises shall be either: (i) calculated on the basis of the equivalent of a number of months of the rental value, or a fixed percentage of the rental amount payable for the period of United Nations occupancy; or (ii) a fixed percentage of the cost of repair; the Secretary-General will decide on the appropriate method for calculating compensation payable for loss or damage to premises at the conclusion of the pre-mission technical survey;

(c) No compensation shall be payable by the United Nations for loss or damages that, in the sole opinion of the Secretary-General, are impossible to verify or are not directly related to the loss or damage to the premises;

11. Decides that:

(a) Compensation for loss or damage to personal property of third parties arising from the activities of the operation or in connection with the performance of official duties by its members shall cover the reasonable costs of repair or replacement;

(b) No compensation shall be payable by the United Nations for loss or damages that, in the sole opinion of the Secretary-General, are impossible to verify or are not directly related to the loss or damage to the personal property;

12. Requests the Secretary-General to take the necessary measures to implement the present resolution in respect of the status-of-forces agreements in accordance with paragraph 40 of his report;[1]

13. Also requests the Secretary-General to ensure that the terms of reference of the local review boards include the temporal and financial limitations on the liability of the Organization, as set out in paragraphs 8 to 11 of the present resolution, and that those boards rely on those temporal and financial limitations as a basis for their jurisdiction and recommendations for compensation for third-party claims against the Organization resulting from peacekeeping operations conducted by the Organization.

DRAFT RESOLUTION II

Financing of the United Nations Logistics Base at Brindisi, Italy

The General Assembly,

Recalling section XIV of its resolution 49/233 of 23 December 1994,

Recalling also its decision 50/500 of 17 September 1996 on the financing of the United Nations Logistics Base at Brindisi, Italy, and its subsequent resolutions thereon, the latest of which was resolution 52/1 of 15 October 1997,

Having considered the reports of the Secretary-General on the financing of the Logistics Base[6] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[7] the report of the Office of Internal Oversight Services[8] and the views expressed by Member States in the Fifth Committee,[9]

1. Takes note of the reports of the Secretary-General on the financing of the United Nations Logistics Base at Brindisi, Italy;[6]

2. Takes note also of the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions;[7]

3. Regrets that the observations and recommendations of the Advisory Committee on the cost-benefit analysis were not available for consideration in conjunction with the report of the Secretary-General,[10] which deals, inter alia, with the cost-benefit analysis;

4. Takes note of the fact that the report of the Secretary-General[10] contains, inter alia, a cost-benefit analysis of the operation of the Logistics Base and information on the progress in the clearance of the backlog inventory, on the use of the Logistics Base by the United Nations agencies and programmes, and on the Logistics Base communications relay system and its functions, as requested by the General Assembly in its resolution 52/1;

5. Approves the proposal of the Secretary-General with regard to the funding mechanism set out in paragraph 33 of his report;[10]

6. Approves also the cost estimates for the Logistics Base in the amount of 7,141,800 United States dollars for the period from 1 July 1998 to 30 June 1999, inclusive of the amount of 829,900 dollars for the completion of two start-up kits;

7. Decides to apply the unencumbered balance of 2,025,800 dollars for the period from 1 July 1996 to 30 June 1997 to the resources required for the period from 1 July 1998 to 30 June 1999, and to prorate the balance of 5,116,000 dollars among the approved appropriations of the individual active peacekeeping operation budgets to meet the financing requirements of the Logistics Base for the period from 1 July 1998 to 30 June 1999;

8. Authorizes the Secretary-General to provide for a civilian establishment consisting of ten Professional, ten Field Service and twenty-eight locally recruited staff;

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[6] A/52/810 and A/52/858.

[7] A/52/897.

[8] A/52/426, annex, para. 24.

[9] A/C.5/52/SR.63 and 65.

[10] A/52/858.

9. Approves the resourcing policy proposed in section VIII of the previous report of the Secretary-General[11] regarding the inclusion in future liquidation budgets of provision for the cost of repair, refurbishment and preservation equal to 30 per cent of the total depreciated value of the equipment to be transferred to the Logistics Base;

10. Decides to continue consideration of this question upon submission by the Advisory Committee of its observations and recommendations on the cost-benefit analysis contained in the report of the Secretary-General.[10]

* * *

11. The Fifth Committee also recommends to the General Assembly the adoption of the following draft decisions:

DRAFT DECISION I

Budgetary requirements for peacekeeping operations

The General Assembly takes note of the notes by the Secretary-General containing updated information on the proposed budgetary requirements of each peacekeeping operation for the periods from 1 July 1997 to 30 June 1998[12] and from 1 July 1998 to 30 June 1999.[13]

DRAFT DECISION II

Death and disability benefits

The General Assembly takes note of the second and third quarterly reports of the Secretary-General on progress made in clearing the backlog of claims for death and disability benefits.[14]

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[11] A/51/905.

[12] A/C.5/52/44 and Corr.1.

[13] A/C.5/52/52.

[14] See A/C.5/52/37 and 50.